



# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: [siting.council@ct.gov](mailto:siting.council@ct.gov)

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Daniel F. Caruso  
Chairman

July 26, 2010

TO: Parties and Intervenors

FROM: S. Derek Phelps  
Executive Director

**RE: DOCKET NO. 225C** - Kleen Energy Systems, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a Electric Generating Facility and Switchyard on River Road, Middletown, Connecticut. Reopening of this docket pursuant to Connecticut General Statutes § 4-181a(b) limited to Council consideration of changed conditions and of the attachment of conditions to the certificate consistent with the findings and recommendations contained in the Final Report issued by the Kleen Energy Plant Investigation Review Panel.

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During a regular meeting of the Connecticut Siting Council (Council) held on July 1, 2010 and upon receipt of a Request for Extension of Certificate dated June 22, 2010 from Kleen Energy Systems, LLC, the Council, on its own motion, voted to reopen the docket on the basis of changed conditions pursuant to Conn. Gen. Stat. §4-181a(b).

The Council will hold a hearing on the above-referenced docket, at 2:00 P.M. in Hearing Room One, Ten Franklin Square, New Britain, Connecticut. A copy of the Notice of Public Hearing is attached hereto. The purpose of this pre-hearing memo is to expedite the hearing procedure without sacrificing an informative record necessary for the Council to render a decision.

Please be advised that the substance and purpose of this hearing is limited to the consideration of changed conditions and of the attachment of conditions to the existing certificate consistent with the findings and recommendations contained in the Final Report issued by the Kleen Energy Plant Investigation Review Panel. A copy of the report is available on the Department of Public Utility Control website at <http://www.ct.gov/dpuc/lib/dpuc/kleen/kleenenergyfinalreport.pdf>.

Before July 28, 2010, parties and intervenors are encouraged to submit pre-filed testimony, exhibit lists, administrative notice lists, expected witness lists, and the filing of pre-hearing interrogatories. To save the time and expense of the public, the Council wishes to avoid direct testimony at the hearing.



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### Connecticut Siting Council Pre-hearing Memo, August 3, 2010, Hearing Procedure

**DOCKET NO. 225C** - Kleen Energy Systems, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a Electric Generating Facility and Switchyard on River Road, Middletown, Connecticut. Reopening of this docket pursuant to Connecticut General Statutes § 4-181b limited to Council consideration of changed conditions and of the attachment of conditions to the certificate consistent with the findings and recommendations contained in the Final Report issued by the Kleen Energy Plant Investigation Review Panel.

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1. Before July 28, 2010, all parties and intervenors are encouraged to file pre-hearing interrogatories and exchange pre-filed testimony, exhibits, witness lists, and items to be noticed administratively with all other parties and intervenors. To save the time and expense of parties, intervenors, and the public, all parties and intervenors are encouraged to resolve discrepancies of these items before the hearing.
2. Any person seeking to be admitted as a party or intervenor to the proceeding is requested to file a written petition with the Council on or before July 29, 2010.
3. The 2:00 p.m., August 3, 2010, hearing session will provide the applicant, parties, and intervenors an opportunity to present exhibits and witnesses, and cross-examine positions. The applicant will be allowed to present its exhibits and witness panel, and then be subject to cross-examination by all parties and intervenors in the order that they were made parties and intervenors. All parties and intervenors will then be allowed to present their exhibits and witness panels in the order in which they were made parties and intervenors, and be subject to cross-examination by the applicant and all other parties and intervenors. The applicant will be allowed a final rebuttal. Arguments will be entertained in writing after the close of the last hearing session.
4. The Council will provide an opportunity for the public and public officials to make brief statements into the record.
5. No repetition of facts will be allowed.
6. A verbatim transcript of the hearing session will be made and deposited with the Middletown and Portland Town Clerk's Offices for the convenience of the public.
7. Parties and intervenors will be allowed to submit briefs and proposed findings of facts within 30 days after the close of the hearing.



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8. Members of the public will be allowed to submit written public statements into the record within 30 days after the close of the hearing.
9. Deadlines for briefs, proposed findings of fact, and public statements will be final and no extensions will be granted.
10. The Council may, at its discretion, provide for the grouping of parties and intervenors with the same interest.
11. Individuals will be encouraged to participate through their elected officials and other party or intervenor groupings.
12. All participants will be encouraged to be brief, concise, non-repetitious, and courteous of all other participants.
13. Enclosed is a list of items the Council wishes to notice administratively. Objections to any item on the list should be sent to the Council before the hearing.
14. All participants are requested to place nameplates on the table in front of each witness at the hearing.



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### Administrative Notice List Docket 225C

1. EMF, Electric and Magnetic Fields Associated with the Use of Electric Power. Questions and Answers. NIEHS 2002. <http://www.ct.gov/csc/niehs-emf>
2. Connecticut 1998 Report On Task Force Activities To Evaluate Health Effects From Electric And Magnetic Fields, The Interagency Task Force Studying Electric And Magnetic Fields, January 1998.
3. Electric and Magnetic Field Best Management Practices for the Construction of Electric Transmission Lines in Connecticut, Connecticut Siting Council, December 14, 2007. Website Link: <http://www.ct.gov/csc/emf-bmp>
4. IEEE Standard Procedures for Measurement of Power Frequency Electric and Magnetic Fields From AC Power Lines, IEEE Std 644-1994, December 13, 1994.
5. IEEE Guide for the Design, Construction, and Operation of Safe and Reliable Substations for Environmental Acceptance, IEEE Std 1127-1998(2004), March , 2004.
6. National Electrical Safety Code, ANSI C2-2007, June 16, 2006.
7. Review of the Connecticut Electric Utilities Ten-Year Forecast of Loads and Resources 2008-2017, Connecticut Siting Council, 2008. Website Link: <http://www.ct.gov/csc/cwp/view.asp?a=950&Q=429820&PM=1>
8. 2009 Forecast of Electric Loads and Resources, Connecticut Siting Council, October 8, 2009. [http://www.ct.gov/csc/lib/csc/f2009/f-2009final\[2\].pdf](http://www.ct.gov/csc/lib/csc/f2009/f-2009final[2].pdf)
9. Connecticut Guidelines for Soil Erosion and Sediment Control, May 2002, as amended. <http://www.ct.gov/csc/ctsoil>
10. Conservation and Development Policies Plan for Connecticut 2005-2010, adopted by the Connecticut General Assembly. Website Link: <http://www.ct.gov/csc/cdplan>
11. Research on Power-Frequency Fields Completed Under the Energy Policy Act of 1992. National Research Council, 1999. <http://www.ct.gov/csc/pfresearch>
12. Energy Plan for Connecticut, Connecticut Energy Advisory Board, February 2006. <http://www.ct.gov/csc/ceabplan07>



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13. Power Generation and Fuel Diversity in New England, ISO-New England White Paper, August 25, 2005. <http://www.ct.gov/csc/nefuelmix>
14. Electricity Costs White Paper, ISO-New England, June 1, 2006. <http://www.ct.gov/csc/elecsts>
15. Mail-A-Map Street Map, Middletown, 2003.
16. Integrated Resource Plan for Connecticut. Prepared for CL&P and UI by The Brattle Group. January 1, 2008. [http://www.brattle.com/\\_documents/UploadLibrary/Upload735.pdf](http://www.brattle.com/_documents/UploadLibrary/Upload735.pdf)
17. CEAB Review of State Procurement Plan [Integrated Resource Plan]. Ongoing, January 4, 2008 <http://www.ct.gov/csc/irpreview>
18. Energy Efficiency: Investing in Connecticut's Future. Report of the Energy Conservation Management Board, Year 2006 Programs and Operations. March 1, 2007. <http://www.ct.gov/csc/energyinvest>
19. FY 2009 – FY 2010 Comprehensive Plan. Connecticut Clean Energy Fund. March 31, 2008. <http://www.ctcleanenergy.com/Portals/0/CCEF%20FY%202009%20%20FY%202010%20Comprehensive%20Plan%20Revised%20for%20LFE%202008.06.06.pdf>
20. Public Act 09-221, “An Act Establishing Connecticut Heritage Areas.” Connecticut General Assembly. July 8, 2009. <http://www.cga.ct.gov/2009/ACT/PA/2009PA-00221-R00HB-06584-PA.htm>
21. Public Act 08-94, “An Act Concerning Environmental Justice Communities and the Storage of Asbestos-Containing Material.” Connecticut General Assembly. January 1, 2009. <http://www.cga.ct.gov/2008/ACT/PA/2008PA-00094-R00HB-05145-PA.htm>
22. CSC White Paper on the Security of Siting Energy Facilities (Public Act 07-242: October 8, 2009) <http://www.ct.gov/csc/cwp/view.asp?a=962&q=418676>
23. 2009 Regional System Plan. ISO New England, Inc. October 15, 2009. <http://www.iso-ne.com/trans/rsp/2009/index.html>
24. Barack Obama Presidential Proclamation 8460, Critical Infrastructure Protection <http://www.presidency.ucsb.edu/ws/index.php?pid=86954>
25. Connecticut Stormwater Quality Manual, 2004 <http://www.ct.gov/csc/stormwater>
26. Connecticut Department of Transportation Drainage Manual, 2000 <http://www.ct.gov/csc/drainage>
27. EMF and Health: Review and Update of the Scientific Research, Exponent, December 2007 – June 2008
28. U.S. Department of the Interior, National Park Service, National Register of Historic Places, last visited June 24, 2010. <http://www.nationalregisterofhistoricplaces.com/welcome.html>

29. Hon. Alan H. Nevas, et al., Governor's Commission Re: Kleen Energy Explosion Final Report (June 3, 2010), *available at* <http://www.ct.gov/dpuc/lib/dpuc/kleen/kleenenergyfinalreport.pdf> (last visited July 26, 2010)



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### HEARING NOTICE

Pursuant to provisions of General Statutes § 16-50m and Section 16-50j-21 of the Regulations of Connecticut State Agencies, notice is hereby given that the Connecticut Siting Council (Council) will conduct a public hearing on Tuesday, August 3, 2010, beginning at 2:00 p.m., in Hearing Room One, Ten Franklin Square, New Britain, Connecticut, to reopen Docket No. 225 - Kleen Energy Systems, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of an Electric Generating Facility and Switchyard on River Road, Middletown, Connecticut. Kleen Energy seeks an Extension of its Certificate through and including June 30, 2011, due to unforeseen delays caused by an explosion at the site.

Pursuant to Connecticut General Statutes § 4-181a(b) the hearing would be limited to Council consideration of changed conditions and of the attachment of conditions to the certificate consistent with the findings and recommendations contained in the Kleen Energy Plant Investigation Review Panel Final Report. The 2:00 p.m. hearing session will provide the applicant, parties, and intervenors an opportunity to cross-examine positions. The public will be allowed to make brief oral statements into the record. The applicant will be allowed a final rebuttal. Arguments will be entertained in writing after the close of the last hearing session.

Applicable law for this proceeding includes the Public Utility Environmental Standards Act, General Statutes § 16-50g, et seq., and Sections 16-50j-1 through 16-50v-1a of the Regulations of Connecticut State Agencies.

The Council directs that all testimony and exhibits be pre-filed with the Council and all parties and intervenors by July 28, 2010.

Individuals are encouraged to participate through their elected officials, and other party/intervenor groupings.

Any person seeking to be named or admitted as a party or intervenor to the proceeding may file a written request to be so designated at the office of the Connecticut Siting Council, 10 Franklin Square, New Britain, Connecticut 06051, on or before July 29, 2010.

Parties and intervenors will be allowed to submit briefs and proposed findings of fact within 30 days after the close of the hearing.

Any person who is not a party or intervenor to this proceeding may file a written statement with the Council at the hearing or any time up to 30 days thereafter. Such statements will become part of the record. No written statement or any other material, evidence, or other

information will be accepted from any person not a party or intervenor to the proceeding after 30 days following the close of the hearing, except as otherwise prescribed by law or the Council.

A verbatim transcript of the hearing session(s) will be made and deposited with the City Clerk's Office of the City of Middletown Municipal Building and Portland Town Hall for the convenience of the public.

Requests for information in alternative formats or for sign-language interpreter services must be submitted in writing by July 27, 2010.

The applicant of this facility is represented by the following:

**Applicant**

Kleen Energy Systems, LLC

**Its Representative**

Lee D. Hoffman, Esq.  
Pullman & Comley, LLC  
90 State House Square  
Hartford, Connecticut

A copy of the Request for Extension which initiated the reopening is available for review at the Council's office during office hours at 10 Franklin Square, New Britain, Connecticut, (860) 827-2935. The Council has assigned this application docket no. 225C.

July 9, 2010

Connecticut Siting Council



**LIST OF PARTIES AND INTERVENORS  
SERVICE LIST**

<b>Status Granted</b>	<b>Status Holder (name, address &amp; phone number)</b>	<b>Representative (name, address &amp; phone number)</b>
<b>Applicant</b>	Kleen Energy Systems, LLC	<p>Mr. William C. Corvo President Kleen Energy Systems, LLC P.O. Box 2696 Middletown, Connecticut 06457 (860) 632-1044 Biagio6539@aol.com</p> <p>Lee D. Hoffman, Esq. Pullman &amp; Comley, LLC 90 State House Square Hartford, Connecticut 06103-3702 (860) 424-4315 (860) 424-4370 - fax</p>
<b>Intervenor</b>	NRG Middletown Power LLC	<p>Alfred E. Smith, Jr. Murtha Cullina LLP Two Whitney Avenue P.O. Box 704 New Haven, CT 06503 (203) 772-7722 (203) 772-7723 – fax asmith@murthalaw.com</p>
<b>Intervenor</b>	The Connecticut Light and Power Company	<p>Associate General Counsel Northeast Utilities Service Company P.O. Box 270 Hartford, CT 06141-0270 (860) 665-3395 (860) 665-5504 – fax mackadr@nu.com'</p>
<b>Intervenor</b>	City of Middletown	<p>Timothy P. Lynch Deputy City Attorney City Attorney's Office City of Middletown 245 deKoven, P.O. Box 1300 Middletown, CT 06457-1300 (860) 344-3422 (860) 344-3499 - fax Tim.lynch@cityofmiddletown.com</p>

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**SERVICE LIST**

<b>Status Granted</b>	<b>Status Holder (name, address &amp; phone number)</b>	<b>Representative (name, address &amp; phone number)</b>
<b>Intervenor</b>	Earle Roberts	Earle Roberts 785 Bow Lane Middletown, CT 06457-4810 (860) 346-0068 (860) 344-9327 – fax <a href="mailto:eroberts4675@sbcglobal.net">eroberts4675@sbcglobal.net</a>
<b>Intervenor</b>	Connecticut River Watershed Council, Inc.	Megan Hearne Connecticut River Watershed Council, Inc. DeKoven House Community Center 27 Washington Street Middletown, CT 06457 (860) 704-0057 (860) 704-0057- fax <a href="mailto:mhearne@ctriver.org">mhearne@ctriver.org</a>